BEFORE THE STATE BOARD OF EQUALIZATION

OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
WILLIAM W. AND MARJORIE L. BEACOM)

Appearances:

For Appellants: Lionel Salin
Certified Public Accountant

For Respondent: Karl Munz
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of William W. and Marjorie L. Beacom against proposed assessments of additional personal income tax against each of them in the amounts of $1,600.17 and $717.96 for the years 1965 and 1966, respectively.

The question presented is whether respondent properly disallowed the itemized deductions claimed by appellants for the years in question.

In August of 1969, respondent notified appellants of its desire to conduct a field audit of their separate returns for 1965 and 1966. Despite respondent's best efforts in-the following years, however, it was never able to examine appellants' records because appellants' previous representative repeatedly delayed in agreeing to a time for the audit, failed to appear at a number of times agreed upon, and failed to produce the taxpayers' records when he finally did keep an appointment with respondent's auditor. As a result respondent disallowed, for lack of substantiation, all of the business expenses and itemized deductions claimed on appellants' returns.

At the oral hearing on this appeal, appellants' present representative stated that he had collected all of appellants' available records and offered to submit them for audit. We therefore granted him additional time to put the records in auditable form, and directed him to send copies of this information to us and to respondent for examination. After reviewing the material submitted, respondent advised us that a valid audit could not be made on the basis of the bundled checks and receipts, and listings thereof, that it had received. Respondent particularly objected to the lack of any general books of account, ledger sheets, or accounting schedules clearly referable to the appellants' tax returns, and it also noted that no reasons had been supplied to support the deductibility of the expenditures evidenced by the checks and receipts. In respondent's opinion, therefore, appellants' records are inadequate to substantiate the claimed deductions.

It is, of course, a fundamental principle of tax law that deductions are matters of legislative grace and that taxpayers have the burden of clearly showing their right to the deductions they claim. (New Colonial Ice Co. v. Helvering, 292 U.S. 435 [78 L. Ed. 1348]; Appeal of Jack and Jacoba Turfryer, Cal. St. Bd. of Equal., Feb. 6, 1973.) According to the notices of proposed assessment, the disallowed

deductions fell into the broad categories of business expenses, capital losses, contributions, interest expense, taxes and employee business expenses. With respect to the claimed capital losses, contributions, interest expense, and employee business expense, appellants did not submit any substantiation at all of their right to these deductions. As to these items, therefore, appellants have clearly failed to carry their burden of proof. The same is true for appellants' deductions for taxes. Their documentation in that regard is limited to listing various amounts allegedly paid to the Franchise Tax Board, to the Internal Revenue Service, and to various county tax collectors. No receipts or cancelled checks were provided, and appellants have made no effort to supply any explanations of these alleged expenditures.

Most of the documentation appellants submitted to us relate to general business expenses. It appears that Mr. Beacom was a real estate broker during the appeal years, and his "records" allege substantial expenditures for auto expenses, travel and entertainment expenses, advertising, and salesmen's commissions. Virtually all of the cancelled checks provided for examination, however, were drawn on bank accounts of the "Nevada Company" and "United Lands, Inc." The record does not establish whether these businesses were corporations, partnerships, or sole proprietorships, and appellants have not explained why they should be permitted to deduct any of the expenses of these businesses on their personal income tax returns. Moreover, even if a satisfactory explanation had been provided, there is no proof of the business purpose of any of these alleged expenditures. For these reasons we are compelled to conclude that appellants have failed to prove they are entitled to any business expense deductions.

Appellants having failed to prove any error in respondent's action, that action must be sustained.

Appeal of William W. and Marjorie L. Beacom

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY-ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protests of William W. and Marjorie L. Beacom against proposed assessments of additional personal income tax against each of them in the amounts of $1,600.17 and $717.96 for the years 1965 and 1966, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 6th day of October, 1976, by the State Board of Equalization.

_____, Chairman

_____, Member

_____, Member

_____, Member

_____, Member

ATTEST: _____, Executive Secretary